



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 31 2008

REPLY TO THE ATTENTION OF:
AE-177

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wendlene M. Lavey, Esq.
Squire, Sanders & Dempsey, LLP
4900 Key Tower, 127 Public Square
Cleveland, Ohio 44114

Dear Ms. Lavey:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Republic Engineered Products, Inc., CAA Docket No. CAA-05-2008-0032. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUL 31 2008.

Pursuant to paragraph 31 of the CAFO, Republic Engineered Products, Inc. must pay the civil penalty within 30 days of the date the CAFO was filed, JUL 31 2008. Your check must display the docket number, CAA-05-2008-0032, and the billing document number, 2750803A027.

Please direct any questions regarding this case to Christine Liszewski, Associate Regional Counsel, (312) 886-4670.

Sincerely,

William MacDowell
Chief
Air Enforcement and Compliance
Assurance Section (MN-OH)

Enclosure

cc: Dennis Bush, APC Supervisor
Northeast District Office
Ohio Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2008-0032
)	
Republic Engineered Products, Inc.)	Proceeding to Assess a Civil Penalty
Lorain, Ohio)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Republic Engineered Products, Inc., a corporation doing business in Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

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6. The parties consent to entry of this CAFO and agree to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. On June 27, 1994, U.S. EPA approved the Ohio Administrative Code (OAC) Chapter 3745-17-07(B)(1) as part of the federally enforceable state implementation plan (SIP) for Ohio. 59 Fed. Reg. 27464 (June 27, 1994).

10. OAC 3745-17-07(B)(1) states that visible particulate emissions from any fugitive dust source shall not exceed twenty percent opacity as a three-minute average.

11. On June 27, 1994, U.S. EPA approved OAC Chapter 3745-17-07(B)(3) as part of the federally enforceable Ohio SIP. 59 Fed. Reg. 27464 (June 27, 1994).

12. OAC 3745-17-07(B)(3) states that visible particulate emissions of fugitive dust from, among other things, blast furnace casthouses shall not exceed twenty percent opacity as a six-minute average.

13. Section 502(a) of the Act, 42 U.S.C. § 7661(a), provides that it is unlawful for any person to violate any requirement of a permit issued under this subchapter (Title V) or to operate a major source except in compliance with a permit issued pursuant to an approved 40 C.F.R. Part 70 (Title V) operating permit program.

14. On August 15, 1995, U.S. EPA approved the State of Ohio operating permit program with an effective date of October 1, 1995. 60 Fed. Reg. 42045 (August 15, 1995). *See also* 40 C.F.R. Pt. 70, App. A.

15. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for SIP violations that occurred from January 31, 1997, through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

16. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

17. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

18. Respondent owns and operates an integrated iron and steel facility at 1807 East 28th Street in Lorain, Ohio (the Facility). The Facility produces finished and semi-finished special bar quality steel.

19. The Ohio Environmental Protection Agency (OEPA) issued a Title V permit for the Facility on May 30, 2003.

20. Respondent operates two basic oxygen process (BOP) vessels, identified in the Title V permit as BOP vessels L and N, and a blast furnace casthouse, identified in the Title V permit as blast furnace casthouse #4, at its Facility.

21. The Title V permit provides that visible particulate emissions of fugitive dust from BOP vessels L and N shall not exceed 20 percent opacity as a three-minute average.

22. The Title V permit provides that visible fugitive particulate emissions from blast furnace casthouse #4 shall not exceed 20 percent opacity as a six-minute average.

23. The visible particulate emissions limitations in OAC 3745-17-07(B)(1) of the Ohio SIP and the Title V permit apply to visible particulate emissions of fugitive dust from BOP vessels L and N. Respondent alleges that several Ohio iron and steel companies, including USS/KOBE Steel Company, Inc. (a prior owner of the Facility), appealed the State of Ohio's promulgation of OAC 3745-17-07(B)(1) to the Environmental Board of Review (now the Environmental Review Appeals Commission, or ERAC) (Case Nos. 182477-702383) and U.S. EPA's approval of the rule as part of the Ohio SIP to the Sixth Circuit Court of Appeals (Case No. 94-3780). In addition, Respondent alleges that Republic Engineered Products, LLC (another prior owner of the Facility) appealed issuance of the Title V permit for the Facility to ERAC due to, among other things, inclusion of the visible particulate emission limitations in OAC 3745-17-07(B)(1) (Case No. 475324). According to Respondent, these appeals are currently pending before the ERAC and the Sixth Circuit. The appeals are not affected by the CAFO in any way.

24. The visible particulate emissions limitations in OAC 3745-17-07(B)(3) of the Ohio SIP and the Title V permit apply to visible particulate emissions of fugitive dust from blast furnace casthouse #4.

25. U.S. EPA inspectors conducted visible emissions observations at the Facility on March 21 and 22, 2005; April 1, 2005; and October 12 and 18, 2005.

26. OEPA inspectors conducted visible emissions observations at the Facility on September 1 and 8, 2005.

27. Respondent has conducted visible emissions observations at the Facility from at least December 23, 2003 until the present.

28. Based on observations of opacity by U.S. EPA inspectors, OEPA inspectors, or Respondent, U.S. EPA alleges that visible particulate emissions of fugitive dust from BOP vessel L exceeded twenty percent opacity in violation of the visible particulate emission limitations in OAC 3745-17-07(B)(1) of the Ohio SIP and the Title V permit on the following dates: February 12 and 26, 2004; May 13 and 25, 2004; June 29, 2004; August 12 and 24, 2004; September 2, 9, 16 and 27, 2004; November 15, 2004; December 8, 2004; January 18, 2005; February 10 and 15, 2005; March 10, 18, 21, 22 and 23, 2005; April 1, 7 and 30, 2005; June 2, 2005; January 25, 2006; February 2, 2006; August 22, 2006; February 1, 2007; April 19, 2007; June 9, 2007 and October 4, 2007.

29. Based on observations of opacity by U.S. EPA inspectors, OEPA inspectors, or Respondent, U.S. EPA alleges that visible particulate emissions of fugitive dust from BOP vessel N exceeded twenty percent opacity in violation of the visible particulate emission limitations in OAC 3745-17-07(B)(1) of the Ohio SIP and the Title V permit on the following dates: December 23, 2003; January 14, 2004; March 10, 18 and 25, 2004; April 28, 2004; July 14, 2004; August 17 and 27, 2005; September 1, 8, 22 and 28, 2005; October 12, 14 and 18, 2005; and December 16 and 30, 2005; June 29, 2006; July 13, 2006; August 5, 2006; April 12, 2007; and May 5 and 19, 2007.

30. Based on observations of opacity by U.S. EPA inspectors, U.S. EPA alleges that visible particulate emissions of fugitive dust from blast furnace casthouse #4 exceeded twenty percent opacity in violation of the visible particulate emission limitations in OAC 3745-17-07(B)(3) of the Ohio SIP and the Title V permit on the following dates: March 22, 2005 and May 4 and 5, 2006.

31. On July 26, 2005, September 5, 2006 and February 19, 2008, U.S. EPA issued to Respondent notices/findings of violation alleging that it violated the visible particulate emission limitations in OAC 3745-17-07(B)(1) and (B)(3) of the Ohio SIP and Respondent's Title V permit. Respondent neither admits nor denies the factual or legal allegations contained in the notices/findings of violation and in this CAFO.

Civil Penalty

32. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and cooperation of the Respondent, Complainant has determined that an appropriate civil penalty to settle this action is \$210,000.00 and Respondent has agreed to pay a civil penalty in that amount.

33. Within 30 days after the effective date of this CAFO, Respondent must pay a \$210,000.00 civil penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, Respondent must state "In

the Matter of: Republic Engineered Products, Inc.,” the docket number of this CAFO and the billing document number.

34. This civil penalty is not deductible for federal tax purposes.

35. If Respondent does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States’ enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

36. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

37. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations alleged in this CAFO including the violations alleged by U.S. EPA in the July 26, 2005, September 5, 2006 and February 19, 2008 findings/notices of violation.

38. Except as set forth herein, the CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law or Respondent’s ability to assert any defenses thereto.

39. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 37, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

40. Respondent certifies that it is complying fully with the visible particulate emissions limitations in OAC 3745-17-07(B)(3) of the Ohio SIP and the Title V permit at blast furnace casthouse #4.

41. The effect of this settlement is conditional upon Respondent's implementation of the compliance program for BOP vessels L and N as set forth in Administrative Consent Order, Docket No. EPA-5-08-113(a)-OH-02, between U.S. EPA and Respondent. This CAFO shall automatically terminate upon Respondent's compliance with paragraph 33, above; provided, however, that the resolution described in paragraph 37, above, shall survive termination of this CAFO.

42. This CAFO constitutes an "enforcement response" as that term is used in U.S. EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

43. The terms of this CAFO bind Respondent, its successors, and assigns.

44. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

45. Each party agrees to bear its own costs and attorneys' fees in this action.

46. This CAFO and the Administrative Consent Order referenced in paragraph 41, above, constitute the entire agreement between the parties.

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of: Republic Engineered Products, Inc.

Docket No. CAA-05-2008-0032

Republic Engineered Products, Inc., Respondent

22 JULY 2008

Date

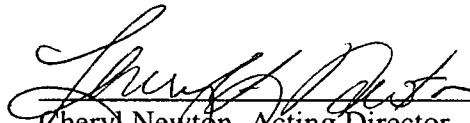


Noel Huettich, Vice President, Corporate Operations
Republic Engineered Products, Inc.

United States Environmental Protection Agency, Complainant

7/29/08

Date



Cheryl Newton, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of: Republic Engineered Products, Inc.
Docket No. CAA-05-2008-0032

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

7/29/08
Date

Walter W. Koralick
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

In the Matter of: Republic Engineered Products, Inc.

Docket No. CAA-05-2008-0032

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0005 8919 1211, the second original to Respondent, addressed as follows:

Wendlene M. Lavey, Esq.
Squire, Sanders & Dempsey LLP
4900 Key Tower, 127 Public Square
Cleveland, Ohio 44114

Noel Huettich, Vice President, Corporate Operations
Republic Engineered Products, Inc.
1807 East 28th Street
Lorain, Ohio 44055

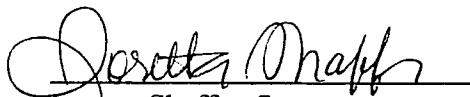
I also certify that I sent copies of the Finding of Violation by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

and

Dennis Bush, APC Supervisor
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

on the 31st day of July, 2008.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8919 1228

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